



OAR 141-089, General Authorizations

RAC Meeting #3 Summary

July 20, 2023; 1:00 – 3:00 p.m.

Overview

The OAR 141-089 Rulemaking Advisory Committee was convened by the Oregon Department of State Lands on July 20, 2023, via Zoom. The purpose of the RAC is to provide input on proposed amendments to the administrative rules governing Division 089, General Authorizations.

RAC Members and Attendance

Name	Affiliation	Present?
Members		
Scott Barrie	Oregon Home Builders Association	Y
Janelle Booth	Oregon League of Cities	
Tommy Cianciolo	Trout Unlimited	
Brian Cook	Clean Water Services	Y
Chris Gannon	Network of Oregon Watershed Councils	Y
Dave Hunnicutt	Oregon Property Owners Association	Y
Andrea Klaas	Oregon Public Ports Association	Y
KC Klosterman	CRH - River Bend Materials (Representing Oregon Business and Industry)	
Drew Raby	(alternate)	
Brad Livingston	Oregon Department of Transportation	Y
Kathy Majidi	Association of Clean Water Agencies	
Lauren Poor	Oregon Farm Bureau	Y
Timothy Sautter	Association of Oregon Counties	Y
Nancy Taylor	Oregon Department of Fish and Wildlife	Y
Joy Vaughn	(alternate)	Y
John VanStaveren	Wetlands Conservancy	
Staff/Advisors		
Danielle Boudreaux	Oregon Department of State Lands	Y
Melinda Butterfield	Oregon Department of State Lands	Y
Dana Hicks	Oregon Department of State Lands	
Kirk Jarvie	Oregon Department of State Lands	Y
Steve Faust	3J Consulting; Facilitator	Y
Interested Parties		

Name	Affiliation	Present?
Kelly Albers	NRCS	
Rich Angstrom	Oregon Concrete and Aggregate Producers Association	
Bill Brignon	USFS	Y
Steve Brink	Idaho Power	Y
Jeffrey Brittain	Oregon Department of Environmental Quality	
Jeff Burrington	Oregon Department of Land Conservation	
Megan Gerber	Wilbur Island Wetland Mitigation Bank	
Michael Lambert	Confederated Tribes of the Umatilla Indian Reservation (CTUIR)	
Rachele Lyon	Lyons Construction	
Michael Martin	Oregon League of Cities	
Ariel Nelson	Oregon League of Cities	
Shawn Priddle	Oregon State Marine Board	Y
Dirk Renner	USFWS	Y
April Snell	Oregon Water Resources Congress	
Ken Yates	Oregon Water Resources Congress	Y
Jana McDonald		Y
Jason Yaich	City of Corvallis	

Welcome and Introductions/Meeting Protocols

- Steve Faust introduced himself and the DSL staff members before briefly going over meeting protocols.

Meeting #2 Follow-Up

- DSL previously emailed a summary log of comments, revised draft GA rule changes, and a link to ESH waterways.
- CWS previously commented on the in-water work window. ODFW considered in-water work window to mean work in the water / in the wet. DSL applies in-water work window to be work below OHW, even if it's dry at the time of work. Kirk Jarvie provided an email response to this comments on 7/6/2023 and 7/20/2023. If you still have questions, comments, or concerns, contact Kirk Jarvie directly.
- Farm Bureau wanted DSL to confirm ODA's rollout schedule for the channel maintenance program for cleaning irrigation channels. This is a 4 phase rollout. Phase 1 started January 2022, Phase 2 started January 2023, Phase 3 starts January 1, 2024, and Phase 4 starts January 1, 2025. ODA's website identified 8 validated notices from northwest farmers to date.

141-089-0660

- No discussion.

141-089-0665

- No discussion.

141-089-0670

- Beaver Pond Levelers.
 - ODFW feels 4 cyd and 10 cyd cumulative is excessive and extreme for installing a fence or standpipe. ODFW recommends 1 cyd and 3 cyd cumulative.
 - Mr. Gannon stated for larger ponds, 1 cyd is not sufficient. Mr. Gannon suggests cutting the proposed numbers to 2 cyd and 5 cyd cumulative. ODFW supports this proposed change.
 - If a property owner has several beaver pond activities, do they have to get a GA permit for each individual beaver pond? Kirk said in most cases, the property owner would submit a GA for each activity. If this is excessive or difficult due to the quantity, talk to the DSL ARC about bundling.
 - Ms. Poor recommends anything that can make it simpler for landowners to obtain this GA. Mr. Cooks is concerned that limiting the total cyd may limit utility of the GA.
 - Mr. Cook and Mr. Sautter want to discuss the proposed 2cyd and 5 cyd cumulative proposal with staff.
- Maintenance and Reconstruction of In-water Structure. Mr. Hunnicutt appreciates the proposed changes.

141-089-0675

- ODFW stated the beaver pond leveler and exclusion devices both trigger fish passage and fish passage issues. OARs states pond leveler must be easy to maintain, monitor, and clean for fish passage... This is to be approved case-by-case basis in waterways with certain fish. ODFW recommends adding the word “temporary” for beaver pond levelers. ODFW expects pond levelers to be removed when beavers leave. Exclusion devices would likely need to be used long-term. Both require maintenance. ODFW recommend removing list of example materials. ODFW is concerned that owners will then think they can put any grate or guard in the stream.
 - Ms. Poor states that ODFW will have to adopt rules that address beaver dam and leveler issues. The ODFW recommended changes would make it difficult for landowners to use this GA and wants to make sure that the rules are easy for landowners to obtain and implement the GA.
 - Mr. Cook is happy to see beaver pond levelers and exclusion devices. He is concerned about ODFW’s proposed term “temporary”, which limit impacts to 24-months per the

definition of “temporary” in OAR. Need more understanding about ODFW’s expected duration of the structures. Mr. Sautter has concerns about use of temporary as well; ODFW regulations doesn’t state anything about temporary. ODFW suggests including language like another GA that says if beaver moved or condition resolved, then the structure would be removed.

- Ms. Poor recommends including language that wraps back to ODFW rules in case ODFW rules change. DSL recommends not citing other agency rules. Based on this, Ms. Poor recommends making the rules as open as possible.

141-089-0700

- No discussion.

141-089-0705

- No discussion.

141-089-0710

- ODFW asks for fish and wildlife salvage language added and used consistently throughout Rule.

141-089-0715

- Mr. Cook requests a change to state the project should “not be channel-spanning unless approved by DSL”. CWS have many small waterways that would require channel spanning. No one had opposition to this proposed change.
- Mr. Cook would like DSL discretion to allow wetlands to be dewatered during in-water isolation. No objections to the proposed change.

Meeting Summary

- Do people want just revised rule change only or do they also want to see the comment log like what was send at the end of the last Meeting Summary 2 document? People liked getting both versions.
- Will send out a new track changes document that includes what we discussed today. Also send meeting summary and recording soon.

Interested Party Comments

- No comments.